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IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 219

UNITED STATES OF AMERICA, *Petitioner*,

v.

FRANK BREWSTER and NUGENT LAPOMA

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO UNITED STATES COURT OF APPEALS FOR THE DISRICT OF COLUMBIA CIRCUIT

JERRY N. GRIFFIN
JOHN K. PICKENS
M. JOSEPH STOUTENBURGH
731 Washington Bldg.
Washington 5, D. C.
Attorneys for Petitioner

DONALD S. DAWSON
Of Counsel.

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Respondents pray that the petitioner's application for a writ of certiorari to review the judgments of the United States Court of Appeals for the District of Columbia Circuit, reversing the contempt convictions against the respondents, be dismissed.

OPINIONS BELOW

The opinions of the Court of Appeals (B. 528a-534; L. 480-481; App. to petition, pp. 35-44, 43-44)[1] have not yet been reported.

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[1] As indicated in the petition, the record lodged therewith includes the Brewster Joint Appendix in the Court of Appeals, designated "B"; the LaPoma Joint Appendix designated as "L". L.G. Ex. 8 refers to the government print of the Subcommittee hearings and was government's Exhibit 8 on the LaPoma trial and government's exhibit 6 in the Brewster trial.

JURISDICTION

The judgments of the Court of Appeals in *Brewster* v. *United States* and *LaPoma* v. *United States*, were entered April 15, 1958; petitions for rehearing *en banc* were denied on May 27, 1958 (R. 535-543, 570; L. 482-484, 486). On June 27, 1958, by order of the Chief Justice, the time within which to petition for certiorari was extended to July 26, 1958. The jurisdiction of this Court rests on 28 USC 1254 (1). See also Rule 38 of the Rules of this Court and Rules 37 (b)(2) and 45(a) of the Federal Rules of Criminal Procedure.

COUNTER-STATEMENT OF THE QUESTION PRESENTED

Whether the provisions of the Legislative Reorganization Act of 1946 establishing the Senate Government Operations Committee and empowering it to study "the operation of *Government activities* at all levels with a view to determining its economy and efficiency" authorized the Committee to conduct investigations into "labor racketeering," the *internal affairs of labor unions* and the personal affairs of Messrs. Brewster and LaPoma.

COUNTER-STATEMENT OF THE CASE

It would not be necessary to make a counterstatement except that the petitioner's statement is far more persuasive than accurate. Some of the more serious inaccuracies are footnoted herein.

A. THE COMMITTEE AND SUBCOMMITTEE

1. Section 102 of the Legislative Reorganization Act of 1946,[2] 60 Stat. 814-820, amended Rule XXV of

[2] Hereinafter frequently referred to as the "Act".

the Senate Rules which created and defined the jurisdiction of the standing committees of the Senate. Major aims of this legislation were to simplify the standing committee system (15 instead of 33); eliminate duplication and overlapping jurisdiction, and tie each committee to its counterpart in the executive branch of the Government; and to establish more direct and intimate contact between each committee and the executive department under its surveillance. (B. 62-69; L. 7-13).[3]

Section 102(1)(g)(1) of the Act (60 Stat. 816) provided for the standing Committee on Government Operations (nee the Committee on Expenditures in the Executive Departments)

> "* * * to consist of 13 senators to which committee shall be referred *all proposed legislation*, messages, petitions, memorials, *and other matters relating to the following subjects:*[4]
>
> "(A) *Budget and accounting measures*, other than appropriations.
>
> (B) *Reorganizations in the executive branch of the Government.*
>
> * * *
>
> "(2) Such committee shall have the duty of—
>
> "(B) Studying the operations of Government activities at all levels with a view determining its economy and efficiency;

[3] The pertinent parts of S. Rep. No. 1400, 79th Cong., 2d Sess.; H. Rep. No. 1011, 79th Cong., 2d Sess.; are reprinted in the appendix to this Brief at pages 47-60.

[4] Emphasis has been added throughout.

(C) Evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government."

It was the scheme of the Act and the Act's legislative history clearly shows that the standing committees of the Senate and not the Government Operations Committee, were to have the legislative oversight of the laws and departments over which they had legislative jurisdiction. The Act was to bring about a three-way division of labor (1) the Appropriations Committee, on one hand, would exercise financial control before expenditure through the scrutiny of departmental estimates; It would look into their budget requests to see if they were excessive or inadequate. (2) The Government Operations Committee, on the other hand, would undertake to review administrative structure and procedure. It would make a post-audit of the agency's administration to see if it had been economical or wasteful. (3) The standing legislative committees would review the operation of substantive legislation and consider the need of statutory amendments. It would hold hearings to determine whether the agency was enforcing the statute in accordance with the legislative intent or to consider proposed legislation in the light of past decisions and regulations.

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[2] Sec. 136. To assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, *each standing committee of the Senate* and the House of Representatives *shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee;* and, for that purpose, shall study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government

The standing legislative committee concerned with amendments and modifications, and investigations concerning the Taft-Hartley Act, the National Labor Relations Board and the Department of Labor is the Senate Labor Committee; that concerned with amendments to the Internal Revenue Code and the operation of the Internal Revenue Service is the Senate Finance Committee; and that concerned with criminal statutes and crime is the Senate Judiciary Committee.[6]

The Government Operations Committee is not the legislative counterpart of the Labor Department or Internal Revenue Service; it is the legislative counterpart of the General Accounting Office and the Bureau of the Budget. It admittedly was conducting an investigation into "labor racketeering." Any legislation emanating from these hearings would have to be referred to the Senate Labor Committee and the Senate Finance Committee. Consequently, these hearings before the Committee could not have had any legislative purpose as far as that Committee is concerned.

It would be absurd to say that in eliminating jurisdictional overlaps, the Act purposely created new and greater conflicts by granting oversight of all Federal laws (including transportation, communication, antitrust, banking, agriculture, foreign affairs, etc.) to the Government Operations Committee, thereby creating a jurisdictional conflict between that committee and each of the other 14 standing committees under the guise of studying economy and efficiency of Government operations.

During the course of the debate in the Senate on the Legislative Reorganization Act, Senator McClel-

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[6] A chart showing the jurisdiction of each of these three committees is found on pages 56-59 of the Appendix to this Brief.

lan, then as now, a member of the Government Operations Committee, introduced an amendment to the Act, the effect of which would have been to give the Senate and House Committees on Government Operations the power jointly to act as the investigating arm of the Congress. The jurisdiction proposed to be given to this super Investigation Committee would cut across the jurisdiction of the other fourteen standing committees of the Senate. This Joint Committee would have had power to investigate the efficient administration of "the laws of the United States" and to determine whether new legislation was needed. The Committee could have investigated all statutes, not merely Government operations. For the first time, the concept of "economy" and "efficiency" was being related to Federal statutes rather than Governmental agencies[7]

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[7] Later on the same day, Senator McClellan offered his amendment and the following colloquy took place:

"Mr. McClellan: Under the terms of this bill as it now stands the committees would be authorized to continue to investigate, or to exercise surveillance over the particular agencies or departments of Government coming within their jurisdiction. * * * If the committee proposed by my amendment is established, there will be a standing joint committee of the two Houses charged with the responsibility imposed in the bill * * *."

Mr. LaFollette: Mr. President, I am exceedingly sorry to have to rise to oppose this amendment. * * * Secondly, we have come to the conclusion *that no one committee can possibly give oversight to the actions of the myriad agencies and departments of Government* and make certain that they are keeping within the bounds of the intent of Congress in delegating power to them to issue rules and regulations * * *. For that reason we have placed that responsibility on the reorganized standing committees. * * * It seems to me that this amendment would simply duplicate what the

This concept is contrary to the Act's attempt to establish legislative and executive counterparts. This amendment enlarged upon and expanded the term "Government activities" by setting forth an area of investigation of "practices, procedures, administrative processes" of departments or agencies of Government-owned corporations. The McClellan amendment was soundly rejected by the Senate. Thereafter, Senator McClellan, and fifteen other senators, voted against (forty-nine voting in favor) the Legislative Reorganization Act. This very power that the Committee says it now has was requested from the Senate for a Joint Committee with the House and was soundly rejected because it destroyed the scheme of the Act. (92 Cong. Rec. 6585, 6578).

The petition alleges (p. 5) that the Senate debate on the Legislative Reorganization Act indicates the extensive power that was "meant" to be granted to the Committee. The debate shows the contrary. However, to support its contention, the views of Senator LaFollette, the author of the bill and its manager in the Senate, are incorrectly represented and the statement of Senator Hill on the floor of the Senate is lifted out of context, with the result that its meaning is completely changed. Senator Hill indicated that he thought the new Committee on Expenditures in the Executive departments was to be important bookkeeping, accounting and post audit committee.

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committee has attempted to do through the standing committees. In my opinion it would disrupt the plan as we have conceived it. We feel that dumping this entire load upon one joint committee would simply swamp it. It would have neither the staff nor the time to handle the matters which he submitted to it." (92 Cong. Rec. 6565)

Previously, the Expenditures Committee had had no subpoena power and had never held a public investigation. The Comptroller General was now required to report through it to the Senate and it was to review his reports. In addition, the former authority of the Judiciary Committee over executive reorganizations was transferred to it. This did not make it a major committee or the investigating arm of the Senate.[8]

The petition makes a bold attempt (p. 5) to use Senator Aiken's remark that he was of "the opinion that S. Res. 189, 80th Cong., 2d Sess., introduced by him on January 14, 1948, would consolidate the work of the then Special Committee to Investigate the National Defense Program, expiring January 31, 1948 and the Surplus Property Subcommittee of the Expenditures Committee" (R. 301), as inferring that greatly increased jurisdiction was granted to the Committee. From this, the petitioner also argues that this Committee is the successor of the powerful Truman Committee.

All of this is a myth. S. Res. 189 merely gave the Committee funds for the exercise of authority already granted (and limited) by the Legislative Reorganization Act. All that Senator Aiken said was that the work of the old Truman Committee (which was then nil—its job having been completed), which was about to expire, could be consolidated with that of the Sur-

[8] That this was a committee of lesser importance than 12 of the other 14 standing committees is demonstrated by the fact that Section 102(4) of the Reorganization Act provided a member of the Senate could sit on only two committees with the exception that members of the majority party could also sit on the Government Operations Committee, the Post Office and Civil Service Committee or the District of Columbia Committee.

plus Property Subcommittee. Senator Aiken was not talking about increased authority and this money resolution did not mention the subject. A cursory reading of the resolution creating the Truman Committee shows how far reaching its authority was in comparison to that of the Government Operations Committee (which was very circumscribed).[9]

Although petitioner has previously conceded that the change of name from the Committee on Expenditures in the Executive Departments on March 3, 1953, to its present name carried with it no additional grant of authority, it attempts to imply otherwise in its petition (pp. 6-7). The provisions of Section 102(1)(g) of the Act have not been modified or amended and the Senate has not granted the Government Operations Committee any additional authority by Resolution.

The Subcommittee

The Investigations Subcommittee of the Government Operations Committee is not "the investigating arm of the Senate" as stated by petitioner. It is one of the many investigating subcommittees of the Senate. If the Senate had considered its role to be such, it would have conferred additional power to continue its investigation of "labor racketeering" on it rather than setting up a new committee, the Select Committee on Improper Practices in the Labor or Management Field. The present subcommittee was created by the Parent Committee on February 26, 1948, for the announced purpose of investigating the Government agencies during the Truman Administration. Its principal purpose and jurisdiction was defined as:

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[9] The resolution establishing the Truman Committee is reprinted on pages 45-46 of the Appendix herein.

> "2. The principal function of the subcommittee shall be to investigate complaints and information coming to its attention involving the possible existence of fraud, malfeasance, misfeasance, collusion, corrupt or unethical practices, and waste and extravagance in *transactions, contracts, and activities of the Government or of governmental officials or employees.*"

The Parent Committee at that time, and at the commencement of each Congress since that date, has authorized it to proceed with any investigation within the jurisdiction of the full Committee.[10]

However, the minutes of the parent committee for January 14, 1957, contain the following:

> "Senator McClellan informed the Committee that hearings would begin before the Subcommittee on Investigations on Wednesday and Thursday of this week, *on the question of labor racketeering,* and that a question of committee jurisdiction has arisen between this committee and the Committee on Labor and Public Welfare * * *."

B. THE INVESTIGATION

1. The "investigation" as set forth in petitioner's application is interesting reading. Even if it were accurate, it does not set forth any facts that would justify certiorari. The investigation on the West Coast by Counsel Kennedy centered around Los Angeles (where he investigated alleged corruption in the collection of garbage), Seattle and Portland (where

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[10] The minutes of the Parent Committee for January 14, 1957, contain the following: "It was reaffirmed that the Senate Permanent Subcommittee on Investigations is authorized to continue to conduct such investigations as its Parent Committee, the Committee on Government Operations, is empowered to conduct under the Legislative Reorganization Act of 1946" (L. 58).

he investigated a purported tie-up between the Teamsters and underworld elements to control vice and law enforcement). It did not involve reports required to be filed by labor unions with the Department of Labor and the Internal Revenue Service (L. 209-211, 218-219, 220-221).

Petitioner's recitation of what Mr. Kennedy investigated is wholly incorrect as Mr. Kennedy admitted on cross-examination that (1) he investigated no Teamster locals in New York; (2) received no "leads" from the hearings in 1955-56 in New York concerning the investigation on the West Coast; the Western Conference of Teamsters, Local 174, Frank Brewster or Nugent LaPoma; (3) a newspaperman, Clark Mollenhoff, gave him the idea of investigating the West Coast Teamsters first around August 1, 1956; and (4) when the investigation of the activities of Murray Chotiner ended abruptly in November of 1956, he obtained permission from Senator McClellan to look into "what the situation was on the West Coast" as to the practices unions were carrying on. Petitioner has related only the testimony of Mr. Kennedy on direct examination and has completely disregarded the testimony on cross-examination which substantially alters his original version of the investigation. (L. 147-148, 163, 209-211, 218-219).

2. Counsel Kennedy interviewed both respondents in Seattle on Saturday, December 15, 1956. He talked to Mr. Brewster first and spent almost the entire interview talking about Mr. Brewster's alleged connections with gamblers and other questionable characters. He questioned him at length about his alleged business dealings with Jim Elkins, notorious leader of the underworld and vice in Oregon. He did not ask Mr.

Brewster about tax or labor forms, union dues or assessments, or other union matters. He did not tell Mr. Brewster or his attorney, Mr. Bassett, what the interview or investigation was about. Mr. Kennedy served two subpoenas on Mr. Brewster, one for all the records of the Western Conference for a 5-year period and a similar subpoena for all the records of the Joint Council for the same period (B. 268-272, 393-397, 441-443).

Mr. Kennedy then talked to Mr. LaPoma. He handed LaPoma a subpoena and asked questions about his birthplace and schooling, and if he had ever been convicted of any crime. Mr. LaPoma told him he had not. He asked him about the use of the name "Cavano." LaPoma explained this. Mr. Kennedy did not ask any questions about tax or labor forms, union dues, or per capita assessments. Mr. Kennedy did not tell him what matter he was investigating. Mr. LaPoma thought Kennedy was investigating "racketeering" in view of the headlines regarding Mr. Kennedy that had been appearing in the Seattle newspapers and since Mr. Kennedy's first question was whether he had ever been convicted of any crime. (L. 446-449).

On December 9, 1956, Mr. Bassett, counsel to Brewster and LaPoma, telegraphed the Committee that they had not been advised concerning the particular matter in which the Committee was interested and hence the subpoenas on their face were a general search and not confined to matters which might be relevant to the inquiry. Accordingly, he informed the Committee that when they appeared before the Committee, they reserved the right to invoke the Fourth Amendment to the Constitution prohibiting illegal searches and

seizures. The Christmas holidays intervened and Brewster and LaPonna were re-scheduled to appear before the Committee on January 15, 1957.

Labor Racketeering Resolutions in the Senate

On January 7, 1957, Senator Ives reintroduced S. Res. 304 of July 5, 1956 as S. Res. 13, seeking *"authority"* and funds for the Senate Committee on Labor and Public Welfare to undertake an investigation into "labor racketeering." He stated that he knew the Committee on Government Operations had made a preliminary inquiry into the field during the Congressional recess.[11]

Thereafter, Senator McClellan introduced S. Res. 14 asking for "authority" and funds to investigate, among other things, (1) the infiltration by criminal elements into organized labor; (2) the use of violence, shakedowns, blackmail; (3) the existence of other forms of corruption, violation, evasion of laws of the United States on the part of corrupt union officials; (4) misuse and misappropriation of union funds by union officials for their personal benefit and (5) *the failure to file truthful and accurate reports with the Department of Labor pursuant to Section 9(f) and (g) of the Taft-Hartley Act* (L. 17-25).

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[11] Nevertheless, it was his position that:

> "• • • despite this valuable activity by the Senate Permanent Subcommittee on Investigations, I feel strongly that the entire subject of racketeering in organized labor lies squarely within the jurisdiction of the Committee on Labor and Public Welfare. Labor racketeering affects the whole field of labor-management relations; it also affects directly the public welfare which is endangered so long as racketeering exists. • • •" (103 Cong. Rec. 263, January 7, 1957).

Senator McClellan did not then contend his Subcommittee had jurisdiction. He believed that the Subcommittee "by reason of long experience and efficiency of its staff, is *the best equipped to conduct this type of investigation* * * *." Even though the Senate took no action on Senator McClellan's resolution (S. Res. 14), giving authority and funds for an investigation into so-called labor and tax forms, as well as labor racketeering, he proceeded to hold the hearings on January 16-19, 1957, on labor racketeering, at which Messrs. Brewster and LaPoma were called and for which they were indicted for contempt of Congress (L. 18).

Organization Meeting of Subcommittee

The Subcommittee met on January 10, 1957. Chairman McClellan informed the Subcommittee that it had information which indicated a nation-wide condition of "labor racketeering." He told the staff to pursue it. He stated that he would want to go to the Senate to obtain additional authority to broaden the Subcommittee's power to make certain there would never be any question of jurisdiction. He had told Mr. Kennedy all along that in some areas he thought the Subcommittee would have jurisdiction, other areas would be borderline *and others might be entirely beyond their jurisdiction.*[12] He said that in the last session of Congress, Senator Ives had introduced a resolution to authorize the Senate Labor Committee to investigate racketeering in unions. Because of the action on the West Coast and other publicity, it "got around to the press that we were looking into these

[12] In the petition the italicized part of the statement is omitted. This substantially changes its meaning.

things." On the day before he introduced S. Res. 14, he heard from the press that Senator Ives was going to reintroduce his resolution. The Chairman stated that Senator Ives said to him that "he thought probably both committees had jurisdiction *or some jurisdiction or something*" [13] and since he had started last year at that time, he felt he had to follow it up (L. 404).

The Chairman proposed to hold hearings in executive session and then move into public session. The Committee then discussed the possibility of working out a compromise with the Labor Committee and the leadership of the Senate. Senator McCarthy stated at this point:

> "I think that in view of the fact that *the staff of this committee has engineered this* and they have been working on it and they finally hit paydirt, it just does not seem right that another committee would barge in. I frankly would be in favor of fighting this out on the Senate floor on the question of which committee has jurisdiction. * * * We have done all of the spade work and we are ready to go ahead and I think that we should get started as soon as possible on it." (L. 408).

The Chairman noted that jurisdiction could be the main issue at the forthcoming hearings and he remarked that, in any event, the witnesses who refused to answer would be in contempt.[14]

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[13] In the petition, the italicized words are carefully omitted. This completely alters the meaning.

[14] "The Chairman: Let me ask you this: You have talked to Mitchell, have you not?

Mr. Kennedy: Yes, sir.

"The Chairman: Has he indicated his willingness to cooperate?

C. THE HEARINGS

1. The Question Under Inquiry

The question under inquiry was "labor racketeering." At the Brewster trial on June 12, 1957, the petitioner took the position that the question under inquiry was (1) "labor racketeering" which included (2) the need for new legislation to preclude unions, who had failed to file accurate reports with the petitioner, from using the processes of the NLRB and to deprive them of tax exemption. During the progress of the trial, the petitioner apparently realizing the danger of its original position, disclaimed that any

"Mr. Kennedy: Yes, he is very anxious. • • •

"Senator Jackson: Which Mitchell?

"Mr. Kennedy: The Secretary of Labor. • • •

"Senator Ervin: On some of these other things I do not believe that we would have jurisdiction, but in this one, you would.

"The Chairman: *This is the issue before us next Tuesday or Wednesday. Again, they are in contempt if they refuse.*

"Mr. Kennedy: They are going to say we do not have jurisdiction or refuse because of the Fourth Amendment. The International Brotherhood of Teamsters as well as any other teamsters unit now has indicated that they will not cooperate at all with us. • • • (L. 417)

"Senator McCarthy: • • • Why would it not be a good idea to hold the executive session Tuesday and then if there is some meat there hold an open session Wednesday when Senators Symington and Jackson and the boys can be with us.

"The Chairman: I wanted you to be prepared if we find we need to go into open session, but I do think this: *I think we should have an executive session first so as not to let them make a big horseplay in public until we know what the story is. Then, we can move into public hearings and only concentrate on that which we know we want to bring out at the time.* • • •

"Senator McCarthy: My thought would be, Senator, that as far as the executive session was concerned, with the Chairman in charge of it, *we could easily determine whether or not there was something there and take it up with you and have an* open session Wednesday, when you all could be there. (L. 418)

part of the question under inquiry was "labor racketeering."

Later, at the commencement of LaPoma's trial, the petitioner stated that the question under inquiry was the violation and nonenforcement of Government laws to determine if legislation were needed as set forth in Government laws to ascertain what *administrative* changes should be made. Any purpose at recommending new legislation was disclaimed by Government counsel though Chairman McClellan repeatedly stated this as a purpose in his opening remarks on January 16th. The question under inquiry was labor racketeering[15] and not the administration of the labor and tax forms. The Chairman in his opening statement of the hearings on January 15, in executive session, states in part:

> "In the passage of the Taft-Hartley Act in 1947, the Congress undertook to protect union members, the general public, and the Government against certain types "*of racketeering*, including the misuse or misappropriation of union funds by dishonest union officials.
>
> "* * * In the course of our previous investigations and *this present preliminary inquiry*, we have acquired information that clearly indicates that there is *labor racketeering* in the area of Govern-

[15] Mr. Kennedy defined the understanding of the "Subcommittee" of the terms "labor racketeering" as including (1) misuse of welfare and pension funds; (2) *collusion between management and labor to the detriment of the union members;* (3) *bribery by management;* (4) *extortion;* (5) *the use of violence and terrorism in labor unions;* and (6) *the lack of democratic* rights within labor unions. (L. 183)

ment procurement[16] resulting in increased costs to the taxpayers for commodities produced."

This statement was prepared after the Committee had knowledge that the Teamsters were going to challenge its jurisdiction. More competent are the statements of the Chairman made to the meetings of the Subcommittee on January 10 and the full Committee on January 14, 1957.

At the January 10 meeting of the Subcommittee, the Chairman stated that the Subcommittee had received information indicating a "nation-wide condition with respect to labor racketeering." He told the staff "to pursue it and get some preliminary information" (L. 402). The minutes of the Parent Committee of January 14, 1957, stated, in part, as follows:

> "Senator McClellan informed the Committee that hearings would begin before the Subcommittee on Investigations on Wednesday and Thursday of this week on the question of *labor racketeering*, and that *a question of committee jurisdiction* had arisen between this committee and the Committee on Labor and Public Welfare."

2. Hearings Before Subcommittee

The hearings before the Subcommittee in executive session commenced on January 16th. Chairman McClellan read an opening statement, parts of which are set forth in pages 14 to 17 of the petition. From such

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[16] See the Report No. 1166, 85th Cong., 1st Sess. (Sept. 6, 1957), which covers some 68 pages on the investigations by this Subcommittee and to which the Chairman refers. The Report speaks of fraud in military procurement and not once in the whole report does it allude to labor racketeering.

statement Messrs. Brewster and LaPoma (who were later given copies) determined that the Committee was still investigating *labor racketeering* as the Chairman made several references to that subject and never did make clear exactly what was the question under inquiry. It heard Judge Leedom, Secretary Mitchell and Messrs. Winkle and Barnes in the morning session. In the afternoon it called Messrs Brewster and LaPoma and Arthur Santa Maria, among others. All of these witnesses appeared in executive session (L. G. Ex. 8, pps. 3-56).

Testimony of Government Officials

Judge Leedom was examined on the procedure in the filing of these labor reports. Secretary Mitchell was questioned about the labor forms. His views were that: If it were desired to have the Department go into the accuracy of these forms, "it would have to be by legislation because administratively, I think the law is being complied with as it is now written." Senator McClellan stated that one union had not held an election in twenty-five years. He asked the Secretary to comment upon the laws as to the election of union officers. Senators McClellan and Symington asked the Secretary, among other things, questions concerning the infiltration of some unions by racketeers and hoodlums.[17]

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[17] At the close of the Secretary's testimony the following colloquy transpired between the Chairman and the Secretary:

"The Chairman: * * * Reflections are often cast upon the whole labor organization movement by reason of these incidents that occur. We are speaking of racketeers getting a hold or people filing false returns, and so on. It is bound to reflect upon the whole organization, and if we can eliminate that then we are actually rendering a service to the

Messrs Winkle and Barnes of the Revenue Service testified that it was impossible to audit very many of the returns filed by tax-exempt organizations.

The following colloquy then ensued:

> "The Chairman: * * * If a labor union official or the union reporting on its financial report, or annual report—if the disclosure of the amount of compensation and allowances are fraudulent or false as to the officers' compensation, would you not be interested in checking the records of that labor union to ascertain the extent to which the officer was defrauding the Government on his income tax?
> Mr. Barnes: We certainly would, sir. * * *
> The Chairman: Can you get the records of the labor union for that purpose?
> Mr. Barnes: If the law is followed, we think we can." (G. Ex. 8, pp. 18-19)

Testimony of Mr. Kennedy Before Subcommittee

The Subcommittee met at 10 a.m., Thursday, January 17th *in public session* for the first time. Mr. Kennedy, counsel to the Subcommittee, testified that Messrs. Santa Maria, Virgilio, Petrozza and Reiss were trustees or officers of New York Local 496 of the Chemical Workers. He said that the charter of this local was revoked because of evidence that its officers

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labor movement and to labor as an organization or institution. Would you agree with that?

"Secretary Mitchell. I agree with that; yes, sir.

"Chairman: I wish to say that so far as the chair is concerned, I echo the sentiments of every member of this Committee that that is the objective of this investigation to try to do just that, and not to reflect upon or to do any harm or injury to unions that are operating in compliance with the law, but try to reach those who are apparently beyond the pale of it now and who are taking advantage of it."

were involved in extortion charges. This local union then became part of Local 227 of the UAW-AFL which was controlled by a well-known hoodlum, Johnny Dio. When Dio became involved in trouble with the State, Local 227 obtained a charter as Local 284 of the Teamsters. It was a "paper local" as no members were transferred. Senator McCarthy asked Mr. Kennedy to bring out that the purpose of these "paper" unions was to obtain votes in a union election contest between the hoodlums and the honest labor element.

Testimony of Other Witnesses

Messrs. Virgilio and Petrozza took the Fifth Amendment on most preliminary questions. Mr. Vincent Trani, an officer of one of the "paper locals"; Mr. Arthur Santa Maria; Mrs. Kabat, an employee of Local 227 then testified. Trani and Santa Maria took the Fifth Amendment. Mrs. Kabat was interrogated concerning the forging of checks by union officers. Mrs. Taylor was questioned about Messrs. Virgilio, Petrozza and Santa Maria's connection with Johnny Dio, notorious gangster, and their critical remarks concerning Victor Reisel. (G. Ex. 8, Kabat 116-122; Taylor 126-131). The Subcommittee reviewed Arthur Santa Maria's criminal record and brought out that he had convictions for bookmaking in 1939, 1943, 1945, 1950 and 1951. He was also interrogated concerning an alleged arrest for extortion.

On January 18, Mr. Einar Mohn, an International Vice President of the Teamsters, was interrogated about a telegram to officers of the International, advising them, among other things, that a group of attorneys representing the International and various locals

had met in Chicago on January 3, 1957, and were of the opinion that the Subcommittee "is not engaged in an inquiry into specific situations within their constitutional and statutory authority and that a 'fishing expedition' beyond the scope and authority of the Committee is being conducted." He was asked for his opinion as to which committee had authority. Mr. Mohn respectfully declined to answer these questions on the ground that the Subcommittee lacked jurisdiction (G. Ex. 8, pp. 180-184, 187-193).

At the opening of the hearing on Saturday, January 19, 1957, the Chairman made the following statement, in part:

> "The Chair wishes to announce * * * that * * * since yesterday at noon when we recessed, the Committee has heard a number of witnesses in executive session, *witnesses who gave testimony of importance quite pertinent to the subject matter under inquiry* and testimony that indicates conditions prevail that are of interest to the Congress in its investigation of Government operations with respect to its efficiency and economy." (L. 396)

The witnesses to whom he referred were Stanley Earl, a city commissioner of Portland, Oregon; Wallace Turner and William Lambert, newspaper reporters from Portland; Leo Plotkin, a procurer from Portland; and Geraldine Taylor from Bayonne, New Jersey (L. 268-269). Not one testified about labor or tax forms (L. 43-114).[18]

[18] Despite this, it should be noted that the transcript of this hearing was labeled "Violation or Non-enforcement of Government Laws and Regulations in the Labor Union Field" (43). This title was put on the Government print of the hearings after Messrs.

Turner and Lambert testified concerning alleged attempts of Teamsters to take control of law enforcement, vice and rackets in Portland (L. 81-86). Elkins, Earl and Plotkin testified concerning alleged attempts of Teamsters to control prostitution, an abortion ring and other vice. They testified concerning the alleged use of threats, violence, extortion and bribery by various Teamster officials and the attempt to take over law enforcement in Oregon (L. 63-79; L. 86-105; 105-115). The Subcommittee attempted to make Witness Tols, a call-house madam, admit that the Teamsters set her up in business and controlled prostitution (L. 53-56). The Chairman said that this testimony was of "importance quite pertinent to the subject matter under inquiry" [19] (L. 396). Thereafter, Messrs. Brewster and LaPoma were called to testify.

3. Brewster's Alleged Contempts

On January 16, 1957, Mr. Brewster appeared in executive session before the Subcommittee in Washington, D. C. He informed the Chairman that he

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Brewster and LaPoma were indicted. In the words of Mr. Justice Frankfurter, it has the usual infirmities of *post litem motam*, self serving declarations. However, the petition is most misleading and attempts to give a contrary impression when it states that "On January 16, 1957, the Subcommittee commenced its hearings on the subject: Violations or Non-enforcement of Government Laws and Regulations in the Labor Union Field," citing (B. 309; L. 327).

[19] In the trial of Mr. Brewster, Government Counsel asked Mr. Kennedy who was the Government's only witness in that case, as follows (Tr. 129):

> "Q. Were you its counsel (the Subcommittee's) in the conduct of the hearings on labor racketeering, so-called?
>
> "A. I was. I was counsel in January of 1957 when we went into some matters that had to do with that."

had prepared a statement. He gave his name and address and stated that he was Chairman of the Western Conference, President of Joint Council 28, the Joint Council Building Association and Local Union 174. As soon as his counsel, Samuel B. Bassett, Esquire, identified himself, Senator McCarthy made the point that a lawyer representing a union could not also represent a union official accused of wrongdoing. (B. 131)

The Chairman asked Mr. Brewster if he appeared in response to two subpoenas. He was asked to identify them, which he did. Senator McCarthy took over and again asked Mr. Bassett to find out who was paying his fee before he reappeared. The Chairman asked Mr. Brewster if he had read the Chairman's opening statement, if he understood the purpose of the hearing. Mr. Brewster replied, "As near as I could understand the statement." He was asked to identify an exchange of telegrams between the Chairman and himself. He did this. The Chairman inquired if Mr. Brewster had brought the subpoenaed documents. Mr. Brewster read the prepared statement which had been filed in accordance with Subcommittee Rules. The Chairman stated that Mr. Brewster raised a question of constitutionality and of the Committee's exceeding its authority. He asked him to state his position with reference to that. Mr. Brewster stated, "I do not intend to answer any questions until the Committee is lawfully and legally recognized, this Committee, as to its authority." He was then excused and informed that there would be open hearings the next day (B. 134-136, 141).

On January 19, 1957, he was recalled. He was asked his name and address, which he gave. He was

asked his occupation. He informed the Chairman that his occupation was set forth in his prepared statement. He courteously declined to answer after being directed to do so. Although he had filed his statement in accordance with the Committee Rule, the Chairman refused to permit him to read it. Later, however, after Senator McCarthy suggested that these proceedings might result in criminal prosecutions and that one never knew when you might encounter a "Bailey Aldridge," a majority of the members insisted he be allowed to read his statement. The Chairman stated that Brewster would not receive "any special priyileges" just because he was a union "big shot." The similar statement filed by him regarding the records of Joint Council 28 was ordered printed in the record. In these two statements Mr. Brewster respectfully declined to answer questions or produce documents on the grounds that (a) the language of the subpoenas was so broad as to violate the Fourth Amendment and (b) the Subcommittee was acting in excess of its authority. He respectfully declined to answer further questions on these two justifications (B. 156-157).

4. LaPoma's Alleged Contempt

Immediately thereafter, LaPoma was called into executive session to testify. He was asked and gave his name and address. His counsel, Samuel Bassett, Esquire, was identified. Mr. LaPoma then identified a copy of the subpoena served on him on December 15, 1956, commanding him to appear and produce the books and records of Local 174 for the period from January 1, 1951 to December 31, 1955. Mr. LaPoma acknowledged that he had seen the opening statement

of Chairman McClellan, distributed outside the closed hearing room and shown to him (G. Ex. 8, pps. 47-48). He testified that he had not brought the subpoenaed records. He then read a statement previously filed with the Committee in accordance with its rules. This statement gave as his reasons for not producing such records that (1) the Subcommittee was proceeding in excess of its lawful authority by going into internal affairs of Local 174 and that (2) he was advised by counsel that the subpoena was so broad as to violate the Fourth Amendment to the Constitution. Mr. LaPoma refused to answer further questions on these two justifications. The Chairman then excused Mr. LaPoma. His conviction for contempt of Congress stems solely from his second appearance (G. Ex. 8, pp. 48-49).

On January 19, 1957, Mr. LaPoma was recalled. His previous statement was ordered printed in the record, and he read a part of the statement identifying him. He was asked if he had made available the records called for in the subpoena of December 15, 1956. He stated that he had not produced them for the reasons set forth in his statement. The Chairman asked, "Do you have any intentions now of producing these records under this subpoena?" LaPoma refused to answer for the same reasons.

The Chairman asked him if he had heard the statements made to the Witness Brewster with respect to the question under inquiry. He stated that he had. Mr. LaPoma was shown three financial reports of Local 174, for the years 1954, 1955 and 1956, filed pursuant to Section 9(f) and (8) of the Taft-Hartley Act and signed by him as Secretary-Treasurer of Local 174. He was asked to examine the documents and to

identify his signature. He declined to do either on the grounds set forth in his statement. He was asked if he had any further reasons for refusing to produce the records.

5. Subsequent Events

This series of hearings at which Messrs. Brewster and LaPoma testified, adjourned January 19, 1957. Meanwhile, a controversy had arisen between the Labor Committee and the Government Operations Committee as to which had jurisdiction, if either, (and should be granted authority and funds) to conduct the investigation. A Select Committee was established on January 30, 1957, pursuant to S. Res. 74 to investigate criminal and other improper activities in the labor or management field. Learning of its adoption, Messrs. Brewster and LaPoma immediately sent a joint telegram to Chairman McClellan offering to turn over their records to the Select Committee and to testify as requested. (B. 70-91, 413; L. 456.)

On February 7, 1957, the Parent Committee voted to cite Messrs. Brewster and LaPoma for contempt.[20] The next day LaPoma was served with a subpoena and turned over the records of Local 174 to a Select Committee investigator. He was informed that his appearance before the Select Committee was not then required.

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[20] The minutes of the Parent Committee of February 7, 1957, show that Senator Jackson agreed to vote for the contempt citations only if Messrs. Brewster and LaPoma and others (Mohn and Reiss) would not testify before this or the Select Committee. Apparently Senator McClellan never informed Senator Jackson, Senator Humphrey and the other Committee members, or the Senate, that Brewster and LaPoma had agreed to turn over (and did turn over on February 15) the requested records and to testify as required.

The subpoenaed records of the Western Conference and Joint Council 28 were turned over to the staff of the Select Committee in Seattle on February 15 and the Chairman was so notified by telegram of February 17. On February 19, the Chairman pressed a resolution in the Senate to cite Messrs. Brewster and LaPoma for contempt without informing that body that they had turned over the subpoenaed records and had offered to testify as required.

Pursuant to Mr. Brewster's offer to testify before the Select Committee, the Chairman wired him to be in Washington on February 28, 1957, when the hearings before that Committee commenced. He appeared and reported to Committee Counsel on that day and daily for almost three weeks. Finally, on March 15th, he was called before the Select Committee. He testified on March 15, 18, 19, 20 and 21. He answered all questions of the Committee and gave it complete cooperation as he had promised he would do.

In all fairness to Mr. Brewster the Senate should have informed the Justice Department that he had given the Select Committee complete cooperation and ask that his indictment for contempt of Congress be dropped.

REASONS FOR DENYING THE WRIT

As the Rules of this Court make abundantly clear, a review on writ of certiorari is not a matter of right but rather one of sound judicial discretion. Review will be granted only where there are special and important reasons therefor, such as where a Circuit Court of Appeals (a) has rendered a decision in conflict with another circuit on a similar and important matter, (b) has decided an important question of Federal law

which has not been, but should be, settled by this court, (c) has decided a Federal question in a way probably in conflict with applicable decisions of this Court, or (d) has departed from the accepted and usual course of judicial proceedings. No one of these reasons, or any other important reason, is presented by the petition.

The decision below was rendered on April 15, 1958, by a division of the Court of Appeals which was composed of Associate Justice Stanley Reed,[21] Circuit Judges E. Barrett Prettyman and David L. Bazelon. Thereafter, petitioner filed a rather elaborate petition for a rehearing before that Court of Appeals, *en banc*, contending that the same should be granted because (1) the cases involved "a question of extraordinary public importance" and (2) there was a question whether the decision of the Court should be overruled. The Court of Appeals, sitting *en banc*, denied petitioner's application on May 27, 1958.

Under the Rules of that Court of Appeals, the mandate could issue three days after, May 30, 1958. Since May 30 was a holiday, the third day expired on Saturday, May 31. The mandate, however, issued the following Tuesday, June 3, 1958. This case *was of such public importance to* the petitioner, it is alleged, that the mandate was allowed to issue to the lower court without its asking for a stay in order to seek certiorari; petitioner having had only 46 days in order to prepare itself to ask for a stay.

Thereafter, a motion to recall the mandate was made by petitioner and the Court of Appeals was informed

[21] Associate Justice Reed sitting by designation, dissented from the opinion of the Court. Although petitioner cites this dissent it is not used as a basis for requesting certiorari.

that opposing counsel had been served with a copy of such motion, whereas, in fact, they have never been served. Counsel learned of the motion when they received a copy of the Court of Appeals' order allowing the recall of the mandate *because no objections had been filed.* That is how these cases which involve a question of such "public importance" have been treated.

Contrary to petitioner's contention, the decision of the Court of Appeals has in no way restricted, curtailed, or affected the power of the Senate Committee on Government Operations to acquire information in pursuit of its proper legislative function as set forth in the Legislative Reorganization Act. The decision followed the scheme of the Act and the intent of Congress. The power of the Senate to investigate has not in any way been affected by the decision. The power of investigation is not unlimited and the Act restricted the power to the specific jurisdiction of each of the committees which the court's opinion clearly recognizes.

The correctness of the decision is emphasized by the fact that Circuit Judges Prettyman and Bazelon took divergent views in at least four contempt cases in which the jurisdiction of the particular committee, as set forth in the Legislative Reorganization Act, was one of the issues. In each instance, Circuit Judge Prettyman joined in the opinion of the Court and Circuit Judge Bazelon dissented. However, in the present case, Circuit Judge Bazelon wrote the opinion in which Circuit Judge Prettyman joined.

The decision is in accord with the decision of the Second Circuit involving the identical question con-

cerning the same Subcommittee, in *United States* v. *Lamont,* 236 F.2d 312 (1956), and with the decision of the Federal District Court in Massachusetts, *United States* v. *Kamin,* 136 F.Supp. 791 (1956). Petitioner, however, attempts, as it did in the District Court and the Court of Appeals and in its petition for rehearing *en banc,* to confuse the issue of jurisdiction by citing *Maragon* v. *United States,* 187 F.2d 79 (D.C.Cir.), cert. den. 341 U.S. 932 and *United States* v. *O'Connor,* 135 F.Supp. 590 (D.D.C.), reversed on other grounds, 240 F.2d 204 (D.C. Cir. 1956). These cases are completely inapposite for the following reasons.

Maragon v. *United States, supra,* involved a perjury conviction of a five percenter who demanded to be heard because his name had been mentioned by other witnesses before the Investigations Subcommittee of the Senate Government Operations Committee. Maragon himself invoked the jurisdiction of the Committee by demanding that he be allowed to clear his own name. The charge of perjury arose in connection with the subsequent hearing in which it developed that Maragon was engaged in procuring essential oils for a private perfume company at the same time that he was an employee of the State Department on a Government mission to Greece at Government expense. In addition to the invocation of the jurisdiction of the Committee by the witness, it is clear that this was an investigation of a "Government activity" and wrongdoing on the part of a "Government employee."

United States v. *O'Connor, supra,* was reversed on order of the Court of Appeals in *O'Connor* v. *United States,* 93 App.D.C. 373, 240 F.2d 404 (1956). This case involved the investigation of the United States Information Service, a Government agency, and its

overseas library. Congress in establishing that agency has set forth its purpose as that of disseminating American democratic ideals. A number of books written by alleged Communist authors or former Communists (including O'Connor) had been purchased and placed in the overseas library. O'Connor had no contact with the Government and his books had been purchased in the open market. Nevertheless, the Subcommittee called O'Connor and questioned him about his Communist party activities. He refused to answer and was indicted for contempt of Congress.

The only evidence before the District Court as to the authority of the Subcommittee on Investigations was the testimony of the late Senator McCarthy that the Government Operations Committee had redelegated all its power to the Subcommittee "sometime" in 1948 or 1949 and at the beginning of each session thereafter. The opinion of the Court of Appeals specifically states that although the appellant raised the question of the jurisdiction of the Committee and its Subcommittee and of pertinency, "We do not pass upon these contentions for the conviction in any event must be set aside because the question asked was so imprecise and ambiguous," that the refusal was not a crime.

In the *O'Connor* case, *supra*, the District Court made no exhaustive study of the problem of the jurisdiction of the Committee as did the Court in *United States* v. *Kamin*, 136 F.Supp. 791 (D. Mass. 1956). Nor did it cite any precedent or authority for its reasoning. The decision is clearly wrong. The Subcommittee had reached the point of investigating "O'Connor's activities" and not "Government activities." There is no reason to believe that the District Court's holding regarding the jurisdiction of the Subcommittee was

any more considered than its holding on the vagueness of the questions propounded, which the Court of Appeals reversed. Contrast the nebulous holdings for which these cases are cited with the decisions in *United States* v. *Lamont*, 236 F.2d 312 (2d Cir. 1956) and *United States* v. *Kamin*, 136 F.Supp. 791 (D. Mass. 1956), where the principal issue involved was the jurisdiction of the Government Operations Committee and its Subcommittee and which was held adverse to the Government and in accord with the court's decision in this case.

The lack of merit in appellee's petition is shown by the fact that it relies (1) on the *Maragon* case, *supra*, where the issue of jurisdiction of the Subcommittee could not be questioned as it dealt with a "Government activity," the Department of State, and one of its employees; and (2) the *O'Connor* case, *supra*, which although reversed on another ground, did not consider the question of jurisdiction in the manner of the case at bar, the *Lamont* case, *supra*, or the *Kamin* case, *supra*.

The remarkable aspect of petitioner's assertion that the decision of the Court of Appeals curbs the Subcommittee's power to investigate the accuracy of labor and tax forms filed by labor unions is that this was not the subject under inquiry before the Subcommittee. The petitioner shifted its position four different times during the trial of these two cases. In its opening statement, and during the first half of the Brewster trial, it contended that the subject under inquiry was "labor racketeering." The subpoenas pursuant to which Messrs Brewster and LaPoma appeared, demanded all the books, records and other documents of Local 174, Joint Council 38 and the

Western Conference. They were not limited to, or did they refer to, tax and labor forms. The chairman of the Parent Committee and the Subcommittee informed the members of both in executive session that he was going to hold hearings on "labor racketeering." His opening statement referred several times to "labor racketeering."

The petitioner alleges that the Court has curbed "the Senatorial power." This is not so. The opinion states the power of Congress to conduct the inquiry is conceded. Messrs. Brewster and LaPoma stated repeatedly, and before the Subcommittee, that the Senate itself had the authority to undertake the investigation or to grant that authority to any standing, select, or special committee (which it did on January 30, 1957), to conduct the then present inquiry. When it created the Select Committee, Messrs. Brewster and LaPoma telegraphed its chairman, within 24 hours, that they would turn over all records to it (which they did before they were cited for contempt before the Government Operations Committee), and testify as required. Mr. Brewster came to Washington, pursuant to Chairman McClellan's request, and sat around for almost three weeks waiting, to testify, and then testified fully for five days. When Mr. LaPoma turned over the records of Local 174, he was excused by a staff investigator from testifying before the Committee for the time being and has never been called to testify to date.[22]

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[22] It should be noted that no new subpoena was ever served on Mr. Brewster after the Select Committee was established. Chairman McClellan relied on the subpoenas issued by Mr. Kennedy on December 15, 1958.

Therefore, it should be asked what purpose will be served in granting the writ. None. To make sure Mr. Brewster, who cooperated fully with the Senate and the Select Committee, is made to serve the longest sentence ever meted out in a contempt of Congress case ($1,000 fine and one full year's incarceration, no part of which was suspended.) Messrs. Brewster and LaPoma have always conceded that the Senate had the authority to obtain their records and testimony. The Select Committee has all the records of Local 174, Joint Council 38 and the Western Conference. The Senate has never been denied records in this matter that might aid in whatever legislative purpose it had.

The most important thing to note in this entire controversy is that, if the Senate itself believes that the authority given by the Legislative Reorganization Act to the Government Operations Committee, has in any way been restricted or limited, it can correct this in less than five minutes by passing a simple resolution, specifically granting the committee that authority. Article I, Section 5 of the Constitution provides, among other things, that each house may determine the Rules of its Proceedings.[23]

The fact that the Senate voted for the contempt citations of Messrs. Brewster and LaPoma is no indication of the Senate's serious attitude. At the time that the contempt resolutions were passed by the Senate, there were seven senators on the floor. It was represented to those present that Messrs. Brewster and LaPoma had "defied" the authority of the United States Senate. This was not true. They conceded

[23] Sec. 101 of the Legislative Reorganization Act specifically recognizes this.

the authority of the Senate. Their later conduct before the Select Committee bears out what they earlier stated in writing was their intention. They did defy the authority of the Subcommittee. However, this issue was never properly and accurately placed before the Senate. Therefore, the action of the Senate cannot be said to be a recognition of petitioner's viewpoint of the Subcommittee's authority. If the Senate is going to call on the Federal Courts to punish for contempt it should give careful consideration to all the facts resulting in the requested action and not cite a citizen for contempt as a perfunctory matter.

In fact, as the Court of Appeals set forth in a footnote, the Senate recognized the contrary when it created the Special Committee to take over this investigation into "labor racketeering" it recognized that the Government Operations Committee had commenced such investigation without authority.

However, the petition is a real enigma. It sets forth the "Question Presented" as one involving a very narrow investigation—limited to the subpoenaing of records in connection with an inquiry into the filing and accuracy of tax and labor forms. Yet, when one turns to page 11 of the petition, he is confronted with the fact that there petitioner is contending that there was a "broad investigation" into Teamsters operations on the West Coast.

Petitioner alleges (p. 25) that the decision below "holds that the Subcommittee's power to investigate the administration of Federal statutes does not extend to inquiries directed to the very persons regulated by the legislation." This is a complete non-sequitur. The Government Operations Committee was never

granted jurisdiction to investigate substantive laws administered by the various departments and agencies. Its mission is rather to investigate the functioning of the various departments

It further says that it would be no part of a study of the efficiency and operation of the tax laws to determine from corporation officers whether a particular corporate tax exemption would result in unduly large surpluses for a particular group of corporations. That is absolutely correct. "Corporate activities" are not "Government activities." The Senate Finance Committee in the Senate, and the Ways and Means Committee in the House, have the jurisdiction to make such a study and determination as their jurisdiction extends to all revenue measures. It is common knowledge that the Joint Committee on Internal Revenue Taxation (composed of seven members of the Senate Finance Committee and the House Ways and Means Committee) are making continuous studies concerning the administration of the Internal Revenue Code and its effect on the nation. No other committee in either house could have any legislative purpose in undertaking such an investigation. Any bill resulting from such an investigation would have to be referred to the Senate Finance and the House Ways and Means Committees.

The petition continues (p. 25) that "apparently" the only witnesses the Subcommittee could properly call to aid it in its investigations would be government officials or third persons not connected with the regulated activity. *"It was never the intent of Congress that the Committee could call before it persons not employed by the Government, holding no office*

or trust from the Government and receiving no Government funds for the purpose of a general inquisition into the internal affairs of labor unions and the personal affairs of the union's officers.

The petition shows no comprehension whatever of the scheme of the Legislative Reorganization Act. The jurisdiction of each committee is defined in terms of its executive counterparts in the Government. Union officials do not deal with the Government, in the sense that Government contractors do. To adopt petitioner's view of "oversight" would completely destroy the Act and the Committee system.

The recent investigation into workings of some of the administrative agencies by the Oversight Subcommittee of the House Interstate and Foreign Commerce Committee shows a clear comprehension of the scheme of the Act. When Mr. Goldfine's activities were under investigation—questions arose concerning his personal income tax and the income taxes of some of the corporations that he controlled. Chairman Harris of the Interstate and Foreign Commerce Committee refused to go into these matters and referred them to the Ways and Means Committee. Later, in the same series of hearings, questions concerning a certain military contract came up. Chairman Harris again refused to go into that matter, but rather referred it to the House Armed Services Committee for action.

The Subcommittee never limited the scope of its investigation into "labor racketeering" as petitioner would have one believe. The statement in the opinion of the Court of Appeals that:

> "According to the logic of appellee's view, the Committee would have authority, under its duty to study the 'economy and efficiency' of 'the operations of Government activities,' to investigate all persons and companies subject to laws dealing with internal revenue, transportation, communications, banking, agriculture, shipping, subversive activities, immigration, health, international relations, etc., etc. This, for all practical purposes, would give the Committee on Government Operations jurisdiction to investigate *virtually every activity engaged in by every person in the land.* * * * [Emphasis added]

was brought forth by the fact that this was and has always been the contention of the petitioner in the Courts below. The terms of the subpoenas show that there was no restriction or limitation on the records of Local 174, Joint Council 38 and the Western Conference. They sought everything for a 5-year period.

The Subcommittee investigated the very matters that the Select Committee later went into. Counsel Kennedy testified that Witnesses Earl, Turner, Lambert, Plotkin, Tols and others who testified on alleged attempts of the West Coast Teamsters to take over control of organized crime, vice and law enforcement in Portland, Oregon, and elsewhere, gave substantially the same testimony in executive session before the Subcommittee as they later gave in open session before the Select Committee.

II

1. The decision raises no "grave" question of judicial supervision over the investigative prerogative of Congress. As Chief Justice Warren pointed out in *Watkins* v. *United States*, 354 U.S. 178, 77 S.Ct. 1173,

(1957), and Judge Bazelon in these cases, the Committee (through the contempt citation) is asking the court for something. It is invoking the judicial process to have these witnesses held in contempt and punished. Consequently, its action must conform to the Constitution and the relevant statutes.

The charter of the Committee is explicit. It empowers it to study the Government operations to determine what savings can be effected in specific cases of inefficiency and waste. This language is budget and accounting language that has been used in the Budget and Accounting Act of 1921 and in all the Executive Reorganization Acts. Since the creation of that office, the Comptroller General's duties have been defined in similar terms. The meaning of these terms has been clear for two decades—it is clear that it refers to functions of departments and not to the provisions of statutes and their effect on the "national economy."

The petitioner would have one believe that Congress has been placed on the horns of a dilemma—that only two avenues of approach are open to it. It must either endow a committee with such broad authority to defeat any claim of lack of jurisdiction—this would lead to an overlap of jurisdiction. Or, on the other hand, Congress must define minutely the exact functions of a committee—this would require that Congress forecast accurately the precise area of investigation before any investigation were begun. This argument is not worthy of an attempt to refute it.

Congress has delineated the various jurisdictional areas. A labor racketeering investigation cuts across the jurisdiction of three committees of the Senate—Labor, Finance and Judiciary. In such a case it is

necessary that a special or select committee be established to do the job, which was done. This was clearly foreseen by the framers of the Act. It is not too much to ask of Congress. In fact, in all of the investigations held during the 157 years prior to 1946, prior approval of the house concerned was required. It was accomplished by simple resolution. In fact, frequently a hearing was often held to determine if such an investigation was needed or was wise.

The breadth or lack of precision of the provisions of the Legislative Reorganization Act can always be cured by a clear and concise statement of the chairman as to the subject under inquiry. This court made that clear in *Watkins* v. *United States, supra.*

2. Petitioner alleges that these cases raise issues similar to two cases presently before this Court, *Barenblatt* v. *United States,* 252 F. 2d 129, (No. 35, this Term, certiorari granted, 356 U.S. 929), and *Flaxer* v. *United States,* — F. 2d — (No. 60, this Term, certiorari granted 357 U.S. 904).

Not only is the principal issue in those cases one of pertinency, but the *Barenblatt* case, *supra,* involves a hearing before the House Un-American Activities Committee and the *Flaxer* case, *supra,* a hearing before the Senate Internal Security Committee. The petition fails to point out how a decision involving the jurisdiction of the Government Operations Committee could be aided even remotely by argument or a determination concerning the authority of these other two committees. In fact, a reading of the petition would have one believe that since the Subcommittee is "the investigating arm of the Senate," no other investigating committee of the Senate could be more than a mere shell.

Even if certiorari were granted, and even if the decisions below were reversed, these cases would have to be remanded for a determination of the following other principal issues, raised and briefed and argued below:

(1) That 2 U.S.C. 192 read with the authorization of the Committee is so indefinite as to deprive appellants of due process;

(2) Questions not pertinent to question under inquiry;

(3) Subpoenas were too broad and indefinite and violated Fourth Amendment;

(4) Court erred in refusing to admit testimony or to consider purge as (a) a defense and (b) extreme mitigating circumstances;

(5) Court erred in excluding evidence relevant to question under inquiry; and

(6) Appellants denied right to an impartial (a) grand jury and (b) trial jury.

All of these were important issues in the case which the Court of Appeals did not reach or pass upon. It reached a decision on the lack of authority of the Committee and did not dispose of these other issues in its opinion.

As set forth herein, there is no compelling reason why the writ should be granted. The decision below does not conflict with any decision within or without the circuit. Its holding regarding the lack of authority of the Committee is in accord with the holding of the Second Circuit in the *Lamont* case, *supra*, and the Massachusetts District Court's decision in the *Kamin*

case, *supra*. It is decided in accordance with the principles laid down by this Court in *Watkins* v. *United States, supra*. It involves no novel or important principles of law. Likewise, there is no element of great public interest. Even if certiorari were granted and the decision reversed, it would not necessarily dispose of these two cases and it certainly would not be dispositive of any cases presently pending in the Federal Courts.

CONCLUSION

For these reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

JERRY N. GRIFFIN
JOHN K. PICKENS
M. JOSEPH STOUTENBURGH

Of Counsel:

DONALD S. DAWSON

August 14, 1958

APPENDIX

1. Authority of Government Operations Committee—Section 102(1)(g) of the Legislative Reorganization Act of 1947 (Public Law 601, 79th Cong., 60 Stat. 814-820)

"(g) (1) Committee on Expenditures in the Executive Departments, to consist of thirteen Senators to which committee shall be referred all proposed legislation, messages, petitions, memorials and other matters relating to the following subjects:

(A) Budget and accounting measures, other than appropriations.

(B) Reorganizations in the executive branch of the Government.

(2) Such committee shall have the duty of—

(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(B) studying the operation of *Government activities** at all levels with a view to determining its *economy* and *efficiency;*

(C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(D) studying intergovernmental relationships between the United States and the States and Municipalities, and between the United States and International Organizations of which the United States is a member."

2. Excerpts From Delegations of Authority From Government Operations Committee to Its Subcommittee on Investigations

(a) February 26, 1948 Committee Minutes

"2. *The principal function of the subcommittee shall be to investigate complaints and information coming to its*

*Emphasis has been supplied in each instance herein.

attention involving the possible existence of fraud, malfeasance, misfeasance, collusion, corruption or unethical practices and waste and extravagance in transactions, contracts and activities of the Government or of Government officials or employees.'

"3. Studies of routine problems of management or administrative economy or efficiency such as are made from time to time by the staff of the Committee on Expenditures and which do not require extensive work of an investigating character shall not ordinarily be included in the duties of the subcommittee."

(b) January 14, 1957 Committee Minutes

"It was reaffirmed that the Senate Permanent Subcommittee on Investigations is authorized to continue to conduct such investigation as its Parent Committee, the Committee on Government Operations, is empowered to conduct under the Legislative Reorganization Act of 1946."

3. Resolution Establishing Truman Committee (Special Committee to Investigate the National Defense Program) 87 Cong. Rec. 1615, Part 2; Sen. Res. 71, 77th Cong., 1st Sess.

RESOLVED, That a special Committee of seven Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete study and investigation of the operation of the program for the procurement and construction of supplies, materials, munitions, vehicles, aircraft, vessels, plants, camps, and other articles and facilities in connection with the national defense, including (1) the types and terms of contracts awarded on behalf of the United States; (2) the methods by which such contracts are awarded and contractors selected; (3) the utilization of the facilities of small business concerns, through subcontracts or otherwise; (4) the geographic distribution of contracts and location of plants and facilities; (5) the effect of such program with respect to labor and the migration of labor; (6) the performance of contracts and the accounting required of contractors; (7) benefits accruing to contractors with respect to amortization for the purposes of taxation or otherwise; (8)

practices of management or labor, and prices, fees, and charges, which interfere with such program or unduly increase its cost; and (9) such other matters as the Committee deems appropriate. The Committee shall report to the Senate, as soon as practicable, the results of its study and investigation, together with its recommendations.

For purposes of this resolution the Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and, act at such times and places during the sessions, recesses, of the adjourned periods of the Seventy-seventh and succeeding Congresses, to employ such clerical and other assistance, to require by subpoena, or otherwise, the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to make such investigation, to administer such oaths, to take such testimony, and to incur such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the Committee, which shall not exceed $15,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

4. Excerpts From Senate Report No. 1011, 79th Cong., 2d Sess. (pp. 1-6)

REORGANIZATION OF CONGRESS

INTRODUCTION

The Joint Committee on the Organization of Congress submits herewith its report of recommended changes in the two Houses of Congress.

* * * * *

1. Reorganization of Senate Committees

Recommendation: That the 33 standing committees of the Senate be reorganized into 16, substantially as proposed by Senator La Follette.

Your committee, after studying many proposals for committee consolidation, believes that the recommendation for consolidating the 33 standing Senate committees into 16, based on Senator La Follette's proposal, offers the best chance for improving the committee structure of the upper House.

Under this plan, each Senator would be limited to membership on two standing committees. By permitting concentration on two major committee activities, much of the present waste of time and scattered attention would be avoided. Each committee would have work of sufficient importance to justify specialization in its particular lines of activity. Each standing committee should have power to act jointly with the corresponding committee of the House of Representatives.

Therefore, your committee recommends consolidation of existing Senate standing committees as follows:

Existing committees	*Reorganized committees*
Agriculture and Forestry	Agriculture.
Appropriations	Appropriations.
Audit and Control	Rules and Administration of the Senate.
Enrolled Bills	
Library	
Printing	
Privileges and Elections	
Rules	
Banking and Currency	Banking and Currency.
Finance	Finance.
Education and Labor	Labor and Public Welfare.
Finance (social security jurisdiction)	
Claims	Claims.[1]
Commerce	Interior, Natural Resources, and Public Works.
Indian Affairs	
Interoceanic Canals	
Irrigation and Reclamation	
Mines and Mining	
Public Buildings and Grounds	
Public Lands and Surveys	
Territories and Insular Affairs	
Civil Service	Civil Service.
Post Offices and Post Roads[2]	
District of Columbia	District of Columbia.[1]
Expenditures in Executive Departments	Expenditures in the Executive Departments.
Military Affairs	Armed Services.
Naval Affairs	
Pensions	Veterans' Affairs.
Finance (veterans' jurisdiction)	
Foreign Relations	Foreign Relations.
Interstate Commerce	Interstate Commerce.
Manufactures	
Patents	
Judiciary	Judiciary.
Immigration	

3. Jurisdiction of Committees

Recommendation: That House and Senate rules be amended to define clearly the jurisdiction of each reorganized committee so as to avoid overlapping and duplication and conflicts of jurisdiction.

Reorganization of the committees as recommended above will require a revision of the rules of the two Houses so as clearly to define the jurisdiction of the new standing

[1] These two committees to be abolished after District self-government and judicial or administrative settlement of claims, recommended below, have been approved and effected.

[2] The post roads phase of this committee's work to be absorbed by the new Committee on Interior, Natural Resources, and Public Works.

committees. It is recommended that, as this is done, the jurisdiction of each reorganized committee be clearly defined so that overlapping and duplication will be eliminated. The definitions should enumerate the activities covered and describe their scope in terms of subject matter of legislation as well as the administrative organization of the Federal Government so that disputes over jurisdiction will be minimized or eliminated.

The major objective or predominant character of a bill, in the opinion of the presiding officers of the Senate and the House, should be controlling in determining the reference of bills to committees. We recommend the exercise of more care in the reference of Senate bills. A bill should be referred without regard to the author's service on any particular committee seeking jurisdiction when its subject matter does not normally lie in the defined province of that committee.

In redefining the jurisdiction of committees, great care should be taken clearly to resolve existing conflicts by specifying which committee shall have jurisdiction.

4. Legislative Oversight by Standing Committees

Recommendation: That the standing committees of both Houses be directed and empowered to carry on continuing review and oversight of legislation and agencies within their jurisdiction; that the power of subpena be given them; and that the practice of creating special investigating committees be abandoned.

One of the most difficult problems studied by your committee was that of improving the relationship between Congress and the executive departments of Government. This was ordered in the joint resolution under which we have been operating and appears to your committee to be one of the important phases of our study.

While the Constitution directed the separation of powers between the executive and legislative branches, it did not intend them to go separate ways and in opposite directions. Each year the gulf between Capitol Hill and the depart-

ments widens. And without effective legislative oversight of the activities of the vast executive branch, the line of democracy wears thin. Only one man out of the 3,000,000 Federal employees is elected by and is responsible directly to the people.

Composed of the directly elected representatives of the people, Congress needs to improve its lines of communication, its relationships, its understanding of the departments. At present there is no regular machinery of cooperation between them, aside from inadequate informal conversations or correspondence or a full-dress investigation, by which the common problems of governmental policy can be surveyed.

Vast powers are often necessarily delegated to governmental agencies. Sometimes the laws are not clear or specific and sometimes a problem defies specific legal description and adequate limitation. A clear and continuing understanding of the objectives and methods of the departments should be achieved.

We feel that this oversight problem can be handled best by directing the regular standing committees of the Senate and House, which have such matters in their jurisdiction, to conduct a continuous review of the agencies administering laws originally reported by the committees. Frequent consultation with and reporting to the committees would greatly improve relationships between the executive and legislative branches.

Such review might well include a question period by the committee arranged with the help of a greatly improved committee staff. By this method an open channel of complaints of agency shortcomings or abuses of authority could be maintained so as to furnish all Members of Congress with a clearinghouse for bringing complaints to the attention of administrators through the proper legislative committees.

Directing the regular standing committees to carry on this supervisory function appeals to your committee as a better method than the appointment of numerous select investigating committees when situations have grown so diffi-

cult as to arouse public demand for correction or special study. We recommend that the practice of creating special committees of investigation be abandoned.

Each of the reorganized standing committees should be given the power of subpœna and should be authorized to undertake studies of matters within its jurisdiction either by full or subcommittee action. By directing its standing committees to perform this oversight function, Congress can help to overcome the unfortunate cleavage between the personnel of the legislative and the executive branches.

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5. Excerpts From Senate Report No. 1400, 79th Cong., 2d Sess. (pp. 1-24)

Calendar No. 1427

SENATE

79th Congress
2d Session

Report
No. 1400

LEGISLATIVE REORGANIZATION ACT OF 1946

May 31 (legislative day, March 5), 1946.—
Ordered to be printed

MR. LA FOLLETTE, from the Special Committee on the Organization of Congress, submitted the following

REPORT

* * * * * * * * * *

Determining policy

Cited as the Legislative Reorganization Act of 1946, S. 2177 is designed to reconvert our inherited and outmoded congressional machinery to the needs of today. One group of provisions deals with strengthening the policy determining function of Congress. Because of the volume and specialized character of the legislative business, Congress has logically delegated the initial work of policy making to standing committees of its Members. These committees have had a long and useful history, some of them dating back to the early days of the Republic. There have been

several major and minor reorganizations of the congressional committee system through the years, as new problems have arisen and old ones have disappeared. The system has not been revamped to meet modern needs and conditions, however, since 1921. It is now in need of a complete overhaul to enable Congress to handle efficiently the expanding problems of the postwar world.

Today there are more than twice as many standing committees in the Senate as there are principal provinces of public policy. Responsibility for legislative action is scattered among 33 little legislatures which go their own way at their own pace and cannot act in concert. Their jurisdictions are undefined in the Senate rules, and there are many committees functioning in the same problem areas. For example, three Senate committees deal with problems of commerce and industry, five deal with public land problems, and six with the rules and administration of the Senate. Furthermore, some committees are inactive and seldom or never meet.

To remedy this crazy-quilt pattern, S. 2177 would replace our jerry-built committee structure with a simplified system of standing committees corresponding with the major areas of public policy and administration and having authority to hold joint hearings with the parallel committees of the House of Representatives on matters of common interest. (See chart.) The correlation of the committee systems of the two Chambers with each other would facilitate joint action on specific measures by means of joint hearings. It would also increase the efficiency of the committee structure, facilitate closer liaison between the two Houses, and economize the time of busy legislators and administrators alike. And the coordination of the congressional committee system with the pattern of the administrative branch of the National Government would improve the performance by Congress of its legislative and supervisory functions, provide direct channels of communication and cooperation between the two branches, promote more harmonious and unified action in the development of public policies, and go a long way to bridge the gap be-

tween the legislative and executive branches of the Government.

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S. 2177 would also define the jurisdiction of each reorganized committee so as to avoid jurisdictional disputes between them. It would expand the present meager staff facilities of our standing committees, which are the real workshops of Congress; permit each committee to appoint four experts in its field; and strengthen the legislative reference and bill-drafting services which are our own unbiased research and legal arms. The bill would also authorize each senatorial and congressional office to employ a high-caliber administrative assistant to perform nonlegislative duties and thus allow Members more time for the study and consideration of national legislation.

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Oversight of administrative performance

A third group of provisions in the bill is designed to strengthen congressional surveillance of the execution of the laws by the executive branch. Congress has long lacked adequate facilities for the continuous inspection and review of administrative performance. We often delegate the rule-making power to administrative departments and commissions, without making any provision for follow-up to see if administrative rules and regulations are in accord with the intent of the law. Several of the postwar acts, for example, require certain agencies to submit quarterly reports to Congress, but assign the responsibility for scrutinizing these reports to no legislative committees.

To remedy this situation, S. 2177 would authorize the standing committees of both Houses to exercise continuous surveillance of the execution of the laws by the administrative agencies within their jurisdiction. Armed with the power of subpena and staffed with qualified specialists in their respective provinces of public affairs, these committees would conduct a continuous review of the activities of the agencies administering laws originally reported by the legislative committees. The reconstructed standing committees will, it is hoped, roughly parallel the reorganized

administrative structure of the executive branch of the Government and will be utilized as vehicles of consultation and collaboration between Congress and the corresponding administrative agencies within their respective jurisdictions.

Under this arrangement, it will no longer be necessary to create special committees of investigation from time to time. Sporadic investigations of the conduct of public affairs in the past have often served a salutary purpose by exposing administrative incompetence or corruption and by improving the execution of the laws. But they have lacked continuity and have not provided the members of standing committees with direct knowledge of the information they have gathered. In cases where legislative action is indicated, standing committees find it necessary to do much of the work over again. S. 2177 proposes, therefore, to ban the use of special committees hereafter.

As a further check upon the financial operations of the Government and its care in handling public funds, the bill authorizes and directs the Comptroller General to make administrative management analyses of each agency in the executive branch, including Government corporations. Such analyses, with those made by the Bureau of the Budget, will furnish Congress a double check upon the economy and efficiency of administrative management. Reports on such analyses would be submitted by the Comptroller General to the Expenditures, Appropriations, and appropriate legislative committees, and to the majority and minority policy committees, of the two Houses.

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SECTION BY SECTION ANALYSIS

Introductory Matter

The matter preceding title I of the bill provides a short title for the bill, namely the "Legislative Reorganization Act of 1946"; sets up a table of contents; and provides the usual separability clause.

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Section 101. Rule-making power of the Senate and House

Inasmuch as this title, as indicated, makes changes in the rules of the two Houses it is provided in this section that these provisions are enacted as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply; and such rules shall supersede other rules only to the extent that they are inconsistent therewith. It is further provided that these provisions are enacted with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

This procedure will be recognized as that provided with regard to congressional action on resolutions under recent reorganization acts.

Part 1. Standing Rules of the Senate

Section 102. Standing committees of the Senate

This section amends rule XXV of the Standing Rules of the Senate relating to standing committees. In short, it provides for 16 standing committees in lieu of 33 under existing rules, fixes the membership of each such standing committee at 13 Senators, in lieu of the varying memberships of existing committees, and specifies in considerable detail, by subject matter, the jurisdiction of each such committee; a matter not provided for under existing rules except in isolated instances.

It is not the purpose of this report to present the considerations which moved the committee in each case in distributing the rather imposing list of subjects for legislative consideration among the various committees. It is sufficient to say that the assignments were made as nearly as may be on a functional basis, although the committee is frank to concede, and it is believed the Senate will appreciate, that such a rule could not be followed to the letter. However, the committee has made an earnest effort to set up a workable committee structure.

It will be noted that whereas the report made pursuant to House Concurrent Resolution 18 recommends a Committee on Interior, Natural Resources, and Public Works in which would be consolidated some eight Senate committees, your committee felt that this committee would be heavily overburdened and recommends instead the distribution of this jurisdiction to two committees, namely, a Committee on Public Lands and a Committee on Public Works.

Although, as has been indicated, the committee has deemed it wise not to explain in detail the assignment of the various subject matters, the following tables, first, will suggest in a general way the consolidation effected insofar as it affects the status of the existing standing committees of the Senate and, second, will show the jurisdiction by subject matter under present committee structure and under the proposed realinement.

Table I.—*Consolidation of Senate standing committees*

Existing Committees	Reorganized Committees
1. Agriculture and Forestry	1. Agriculture and Forestry.
2. Appropriations	2. Appropriations.
3. Military Affairs	3. Armed Services.
4. Naval Affairs	
5. Banking and Currency	4. Banking and Currency.
6. Civil Service	5. Civil Service.
7. Post Office and Post Roads	
8. District of Columbia	6. District of Columbia.
9. Expenditures in Executive Departments	7. Expenditures in Executive Departments.
10. Finance	8. Finance.
11. Foreign Relations	9. Foreign Relations.
12. Interstate Commerce	10. Interstate and Foreign Commerce.
13. Commerce	
14. Interoceanic Canals	
15. Manufactures	
16. Judiciary	11. Judiciary.
17. Patents	
18. Immigration	12. Labor and Public Welfare.
19. Education and Labor	
20. Public Lands and Surveys	13. Public Lands.
21. Mines and Mining	
22. Territories and Insular Affairs	
23. Irrigation and Reclamation	
24. Indian Affairs	
25. Public Buildings and Grounds	14. Public Works.
26. Rules	15. Rules and Administration.
27. Audit and Control	
28. Library	
29. Privileges and Elections	
30. Printing	
31. Enrolled Bills	
32. Pensions	16. Veterans' Affairs.
33. Claims	(Abolished.)

Table II.—*Jurisdiction of present and proposed committees*

Subject	Present committee	Proposed committee
(g) (1) Committee on Expenditures in the Executive Departments, to consist of 13 Senators, to which committee shall be referred *all proposed legislation*, messages, petitions, memorials, and other *matters relating to the following subjects:*		
(A) Budget and accounting measures, other than appropriations.	Expenditures in the Executive Departments	Expenditures in the Executive Departments
(B) Reorganizations in the executive branch of the Government.	Judiciary	Do.
(2) Such committee shall have the duty of—		
(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;		Do.
(B) studying the operation of Government activities at all levels with a view to determining its economy and efficiency;	----------	Do.
(C) evaluating the effects of laws enacted to reorganize the legislative ~~—and—~~ executive branches of the Government;	----------	Do.
(D) studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.	----------	Do.
(h) Committee on Finance, to consist of 13 Senators, to which committee shall be referred *all proposed legislation*, messages, petitions, memorials, *and other matters relating to the following subjects:*		
1. Revenue measures generally	Finance	Finance.
2. The bonded debt of the United States	do	Do.
3. The deposit of public moneys	do	Do.
4. Customs, collection districts, and ports of entry and delivery.	do	Do.
5. Reciprocal trade agreements	do	Do.
6. Transportation of dutiable goods	do	Do.
7. Revenue measures relating to the insular possessions.	do	Do.

Table II.—*Jurisdiction of present and proposed committees*—Continued

Subject	Present committee	Proposed committee
(k) Committee on the Judiciary, to consist of 13 Senators, to which committee shall be referred *all proposed legislation*, messages, petitions, memorials, *and other matters relating to the following subjects:*		
1. Judicial proceedings, civil and criminal, generally.	Judiciary	Judiciary.
2. Constitutional amendments	do	Do.
3. Federal courts and judges	do	Do.
4. Local courts in the Territories and possessions.	do	Do.
5. Revision and codification of the Statutes of the United States.	do	Do.
6. National penitentiaries	do	Do.
7. Protection of trade and commerce against unlawful restraints and monopolies.	do	Do.
8. Holidays and celebrations	do	Do.
9. Bankruptcy, mutiny, espionage, and counterfeiting.	do	Do.
10. State and Territorial boundary lines	do	Do.
11. Meetings of Congress, attendance of Members, and their acceptance of incompatible offices.	do	Do.
12. Civil liberties	do	Do.
13. Patents, copyrights, and trade-marks	Patents	Do.
14. Patent Office	do	Do.
15. Immigration and naturalization	Immigration	Do.
16. Apportionment of Representatives	Commerce	Do.
17. Measures relating to claims against the United States.	Judiciary	Do.
18. Interstate compacts generally	do	Do.
(l) Committee on Labor and Public Welfare, to consist of 13 Senators, to which committee shall be referred *all proposed legislation*, messages, petitions, memorials, and *other matters relating to the following subjects:*		
1. Measures relating to education, labor, or public welfare generally.	Education and Labor.	Labor and Public Welfare.
2. Mediation and arbitration of labor disputes.	do	Do.
3. Wages and hours of labor	do	Do.
4. Convict labor and the entry of goods made by convicts into interstate commerce.	Judiciary / Interstate Commerce.	Do.
5. Regulation or prevention of importation of foreign laborers under contract.	Immigration	Do.
6. Child labor	Education and Labor.	Do.
7. Labor statistics	do	Do.
8. Labor standards	do	Do.
9. School-lunch program	Agriculture	Do.
10. Vocational rehabilitation	Education and Labor	Do.

Table II.—*Jurisdiction of present and proposed committees*—Continued

Subject	Present committee	Proposed committee
11. National social security, except revenue measures relating thereto.	Finance	Do.
12. Railroad labor and railroad retirement and unemployment, except revenue measures relating thereto.	Interstate Commerce.	Do.
13. United States Employees Compensation Commission.	Education and Labor.	Do.
14. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital; and St. Elizabeths Hospital.	District of Columbia.	Do.
15. Public health and quarantine	Education and Labor.	Do.
16. Welfare of miners	Mines and Mining.	Do.

Section 128. Legislative oversight by standing committees

In effect, this section directs each standing committee of the Senate and the House to exercise continuous surveillance of the execution by the administrative agencies concerned of laws within the jurisdiction of the respective committees.

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Section 205. Committee staffs

This section authorizes each standing committee to appoint four professional staff members (in addition to the clerical staffs), who are to be appointed on a permanent basis upon the recommendation and certification of the Director, without regard to political affiliations and solely on the basis of fitness to perform the duties of the office. These staff members may not engage in any work other than committee business and no other duties may be assigned to them.

In the case of the Committees on Appropriations, each such committee and each subcommittee thereof is to be provided with a professional staff, two members of which shall be assigned to the chairman of the committee and each subcommittee thereof and two members to the ranking minority member of each such committee and subcommittee thereof.

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Section 211. Administrative management analyses by Comptroller General

This section authorizes and directs the Comptroller General to make an administrative management analysis of each agency in the executive branch, to enable Congress to determine whether public funds have been economically and efficiently administered and expended. Reports on such analyses are to be submitted to the Committees on Expenditures in the Executive Departments, the Appropriations Committees, the legislative committees having jurisdiction over legislation relating to the operations of the respective agencies, and each of the majority and minority policy committees.